IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

FRIDAY, THE 4TH AUGUST 2006 / 13TH SRAVANA 1928

Bail Appl..No. 4586 of 2006

CRMP.1497/2006 of DISTRICT COURT, KOTTAYAM
CRIME NO.429/2006 OF PALA POLICE STATION

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PETITIONER/ACCUSED

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1. MUKESH DEVASSIA,
AGED 39 YEARS, S/O.DEVASSIA, KANDATHIL HOUSE,
KAREEKUNNU.P.O, PALA, KOTTAYAM.

2. D.PRAKASAN, AGED 33 YEARS,
S/O.DEVASSIA, KANDATHIL HOUSE,
KAREEKUNNU.P.O, PALA, KOTTAYAM.

BY ADV. SRI.M.J.THOMAS

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR P.N. SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/08/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M.JAMES, J.

B.A. 4586/2006

DATED THIS THE 4TH DAY OF AUGUST, 2006

O R D E R

The petitioners are accused, in crime No.429/2006 of Pala Police Station. The offence alleged against them are under Sections 452 and 392 IPC read with Section 34 IPC. The allegation made against the petitioners are denied by them, on the ground that the subject matter of this crime is with regard to a cheque for an amount of Rs.50,000/-, on which a proceedings under Section 138 of the Negotiable Instruments Act, in short 'the Act', is already pending before the Judicial Magistrate of First Class, Pala. The further submission of the counsel for the petitioner is that the matter had been attempted to be settled, but there exists difference of opinion between the parties, regarding the amount. However, the learned Public Prosecutor submitted that the corpus of the cheque was settled at Rs.25,000/-, and the defacto complainant signed the blank cheque. However, the blank signed

cheque had been forcefully taken away, as the defacto complainant in this crime, is accused in the proceedings under Section 138 of the Negotiable Instruments Act in short 'the Act'.

2. The learned counsel for the petitioners also submit that the Sub Inspector, who is investigating crime No.429/2006, is a tenant of the defacto complainant and the Circle Inspector of Police is in enimical terms with the accused, for various reasons. The counsel, therefore, submit that a Writ Petition had already been preferred before this Court, for transferring the investigation of this case from Pala Police Station to some other police station.

3. In the above facts situation of the case, I direct the petitioners to appear before the Judicial Magistrate of First Class, Pala, on 14.8.2006 at 11.00 a.m., and move an application for bail ,after serving copy of the same, to the Prosecutor. The petitioners may raise their contentions that had been raised before this Court. In such situation, the learned Magistrate shall pass

appropriate orders. I express no opinion on the enemical interpersonal relationship that had been submitted and mentioned above, as this is the matter to be agitated separately by the parties, through appropriate proceedings and not within the scope of a bail application.

4. The learned Magistrate shall pass orders on merit, after hearing both sides, on the prayers for bail as well as on custody, if any, made. Till such time the custody application is decided on merit, the petitioners shall not be taken into custody by the investigating officer.

The application is disposed of as above.

J.M.JAMES
JUDGE

mrcs